

REMARKS

Claims 1-33 are pending in this application.

The Examiner rejected claims 12-33 under 35 U.S.C. 112, second paragraph, as being hybrid claims. The Examiner also rejected the same claims under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicants traverse these rejections.

Claims 12-33 are computer program product claims, which are articles of manufacture. The Examiner is respectfully reminded of the MPEP's Guidelines for Computer-Related Inventions, which state in part that "if a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product. See, e.g., *Lowry*, 32 F.3d at 1583, 32 USPQ2d at 1034-35; *Warmerdam*, 33 F.3d at 1361-62, 31 USPQ2d at 1760." MPEP 2106 IV (b)(2). Since claims 12-33 are system and computer program product claims that recite physical structure of a manufacture in terms of its hardware and software, they are statutory subject matter under 35 U.S.C. 101, and not indefinite under 35 U.S.C. 112, second paragraph. The Examiner is accordingly asked to withdraw the rejections.

The Examiner rejected claims 1, 2, 4, 6-13, 15, 17-24, 26, and 28-33 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. US 2002/0077130 A1 to Owensby.

Claim 1 recites:

A method for determining a billing rate of a mobile telecommunications connection associated with a mobile telecommunications unit (MU), comprising the steps of:

- determining whether a location of the MU is inside or outside a predetermined subsidized zone;
- responsive to a determination that the location of the MU is inside the predetermined subsidized zone, adjusting the billing rate for the telecommunications connection to a first predetermined billing rate;
- responsive to a determination that the MU is outside the predetermined subsidized zone, adjusting the billing rate for the telecommunications connection to a second predetermined billing rate.

These claimed features enable telephone service providers and/or commercial establishments to provide an incentive to subscribers to place or receive mobile telephone calls or use mobile telecommunications data services from dynamically specified geographic locations.

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advertisements on their wireless devices. If the user does not accept advertisements, then there is no subsidy applied, regardless of where the user uses the wireless device.


In contrast, the claimed invention recites adjusting the billing rate "responsive to a determination that the location of the MU is inside the predetermined subsidized zone." Unlike Owensby, which requires the user to accept an advertisement in order to get a discount, the claimed invention changes the billing rate for the user subject only to the location of the MU. This is a feature not taught, disclosed or suggested by Owensby, and thus the claimed invention is patentable over Owensby. Dependent claims 2-11 depend from patentable independent claim 1, and thus derive their patentability from the patentability of claim 1, in addition to reciting their own patentable features. Independent claims 12 and 23 are patentable over Owensby for reasons analogous to claim 1. Dependent claims 13-22 and 24-33 depend from independent claims 12 and 23, respectively, and derive their patentability from the patentability of claims 12 and 23, in addition to reciting their own patentable features.

Favorable action and allowance of all claims now pending, claims 1-33, are solicited. The Examiner is invited to contact the Attorney for Applicants at the telephone number below if any matters remain outstanding prior to allowance.

Respectfully submitted,

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